

## Guidelines for Conservation District Enterprises

Conservation districts, a subdivision of state government, have long provided various services and materials for rent or sales and have generated income from such activity. In some instances, private-sector business provides the same services and materials in the same county or counties the conservation district provides services and materials.

- K.S.A. 2-1908 (f) states a conservation district has the authority “to make available on such terms as it shall prescribe to land occupiers with the district, agricultural and engineering machinery and equipment, fertilizer, seeds and seedlings and such other material or equipment as will assist such land occupier to carry on operation upon their lands for the conservation of soil resources and for the prevention and control of soil erosion.”
- Attorney General Opinion No. 82-191 states “a soil conservation district, established pursuant to K.S.A. 2-1901 et seq., may sell irrigation equipment for profit to land occupiers within the bounds of the district. Such commercial activity is not violative of either the constitutional prohibition regarding internal improvements or the public purpose doctrine.” This opinion would apply to all services and materials provided by conservation districts.
- K.S.A. 2-1908 (e) states a conservation district has the authority to obtain options upon and to acquire by purchase, any property, real or personal, and to receive income from such properties.”
- K.S.A. 2-1913 states “the supervisors of any two or more districts organized under the provisions of this act may cooperate with one another in the exercise of any or all powers conferred in this act.”

Clearly, a conservation district has the legal authority to own and lease buildings, sell grass seed and compete with private-sector business providing the same goods and services. The district can do so while earning a profit.

In order to retain this authority, avoid legislative conflicts and maintain good relations with landowners/operators, constituents and decision-makers, it is incumbent upon all conservation districts to adopt the following *Guidelines for Conservation District Enterprises*:

1. Conservation districts, while providing services and materials shall not employ any practice or strategy that would create an unfair advantage over other vendors/contractors providing the same services and materials within the county.
2. The conservation district shall publish a **Vendor/Contractor List** of all known vendors or contractors providing conservation-related services and materials in the county.

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3. Upon request, the conservation districts shall update the Vendor/Contractor List to include the names of those vendors and/or contractors wanting to be included on the list.
4. Should a vendor or contractor be required to possess any registrations, licenses, permits or certifications to provide services and materials in the county (i.e. Seed Retailers Registration), the conservation district shall require the vendor or contractor to supply adequate proof or documentation prior to being included on the Vendor/Contractor List.
5. The conservation district shall provide the list to anyone requesting or needing such services and materials.
6. Conservation districts should refrain from implementing direct marketing strategies or commercially advertising the services and materials provided by the district. NOTE: This does not exclude the conservation district from providing information in the newsletter or printed materials in the office regarding the services provided by the district.
7. Should a conservation district provide materials or services to be applied to land residing in another county, the district shall:
  - a. Ensure the landowner receives USDA services from the Service Center in which the conservation district resides, or;
  - b. Have a written agreement with the conservation district where the land resides to provide services and materials in that county.
8. For services and materials provided to Conservation Reserve Program (CRP) or Environmental Quality Incentives Program (EQIP) participants, the conservation district shall not obtain a list of approved applicants by any means prior to the date the list may be provided to other vendors.

Also, if the Natural Resources Conservation Service (NRCS) provides the conservation district office space, be mindful of the Local Operational Agreement provision stating, "Advertising or promotional items for CD enterprise activities that identify either the CD enterprise or associated suppliers may not be displayed in the Service Center building." Commercial activities are not permitted in federal buildings according to the Code of Federal Regulations (CFR). The Federal Government is not to compete with the private sector nor give the impression that they are.

Please contact the State Conservation Commission office for further assistance.